

**STATE OF CALIFORNIA
DEPARTMENT OF INSURANCE
45 Fremont Street, 21st Floor
San Francisco, California 94105**

File No. RH04041574

Date: January 31, 2006

FINAL STATEMENT OF REASONS

**Amendment of Section 2632.5(c)(1)(A)
Ordering of Motor Vehicle Reports**

California Insurance Commissioner John Garamendi has adopted an amendment to Title 10, California Code of Regulations, Section 2632.5(c)(1)(A) clarifying that, to determine a driver's driving safety record, each insurer shall verify a driver's current driving safety record as contained in the driver's Motor Vehicle Report ("MVR") when an automobile insurance policy is issued, when a new driver is added to a policy, and no less frequently than every 36 months thereafter for policies remaining in effect.

STATEMENT OF SPECIFIC PURPOSE

California Insurance Code Section 1861.02(a) provides, in relevant part:

Rates and premiums for an automobile insurance policy, as described in subdivision (a) of Section 660, shall be determined by application of the following factors in decreasing order of importance:

- (1) The insured's driving safety record.

California Insurance Code Section 1861.025 provides, in relevant part:

A person is qualified to purchase a Good Driver Discount policy if he or she meets all of the following criteria:

- (a) He or she has been licensed to drive a motor vehicle for the previous three years.
- (b) During the previous three years, he or she has not done any of the following [specified acts].

Title 10, California Code of Regulations, Section 2632.5(c) provides, in relevant part:

An insurer's class plan, and all rates and premiums determined in accordance therewith, shall utilize the following rating factors (the "Mandatory Factors") for bodily injury liability, property damage liability, medical payments, uninsured motorist, collision, and comprehensive coverages:

(1) “First Mandatory Factor,” as used in subchapter 4.7, is the insured’s driving safety record per California Insurance Code Section 1861.02(a)(1). This factor means the following for the driver rated on the insured vehicle:

(A) the public record of traffic violation convictions available from the California Department of Motor Vehicles, together with similar public records of traffic violation convictions that are available from other jurisdictions;

Some insurers do not order MVRs on a regular or consistent basis. Existing law does not explicitly establish time periods within which insurers shall order MVRs to rate and underwrite an automobile insurance policy. The adopted regulation would do so, ensuring that drivers’ rates and premiums are determined based upon their actual driving safety record and that all Good Drivers actually receive a Good Driver Discount Policy, as required by California law.

SUMMARY OF AND RESPONSE TO PUBLIC COMMENT

The Commissioner’s summary of and response to the public comment is separately included in this rulemaking file and incorporated herein by this reference.

The Commissioner did not receive additional comments in response to the Notice of Availability of Changed Text, dated May 19, 2005.

IDENTIFICATION OF STUDIES AND REPORTS

The Commissioner did not rely upon any technical, theoretical and/or empirical study, report or similar document in proposing this regulation.

SPECIFIC ACTIONS, PROCEDURES, TECHNOLOGIES OR EQUIPMENT

Adoption of the proposed regulation would not mandate the use of specific actions, procedures, technologies, or equipment.

CONSIDERATION OF ALTERNATIVES

As set forth in the responses to comments on the proposed regulations and elsewhere in this rulemaking file, the Commissioner has determined that no reasonable alternative exists to carry out the purpose for which the regulations were proposed or would be as effective and less burdensome to affected persons.

The Commissioner has concluded that he must adopt a regulation regarding ordering MVRs because some insurers maintain that the Commissioner lacks explicit regulatory authority to require that MVRs be ordered at specific intervals.

In addition, the Commissioner considered alternative time periods, but concluded that the selected time period strikes a reasonable balance between the statutory requirements and the costs involved.

Further, in response to public comments, the Commissioner adopted the alternative of recognizing that an insurer may order a report from a third party that establishes that a new MVR would not contain information that was not already included in the MVR the insurer most recently obtained.

MANDATES

The regulations do not impose a mandate on local agencies or school districts.

ECONOMIC IMPACT ON BUSINESS

The Commissioner has determined that the adopted regulation does not have a significant adverse impact on business because the regulation merely clarifies existing statutory requirements, and that it does not affect small businesses.

FORM 399

The Commissioner has determined that the changes made to the proposed regulations after issuance of the originally proposed regulation text do not have a fiscal impact to state agencies, local agencies or school districts or federal funding. Therefore, the Fiscal Impact Statement (Form 399), signed January 10, 2005, is still accurate.

Date: January 31, 2006

JOHN GARAMENDI
Insurance Commissioner

By: /s/
Cathleen S. Chapman
Staff Counsel